

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

R. ALEXANDER ACOSTA,)
SECRETARY OF LABOR,)
UNITED STATES DEPARTMENT OF)
LABOR,) Civil Action No: 2:16-CV-03491
)
Plaintiff,)
)
v.)
)
TEAM ENVIRONMENTAL, LLC,)
)
Defendant.)

CONSENT JUDGMENT

Plaintiff R. Alexander Acosta, Secretary of Labor, United States Department of Labor, hereinafter referred to as "Plaintiff" or "the Secretary," has filed his Complaint alleging violations of the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* (hereinafter "the Act"). Defendant named above, hereinafter referred to as "Defendant" or "Employer," has appeared by counsel, and waives formal service of process of the Summons and Complaint, and any defense which it may have, and hereby agrees to the entry of this Consent Judgment without contest. It is, therefore, upon motion of the attorneys for Plaintiff and for good cause shown:

ORDERED, ADJUDGED, AND DECREED that Defendant, its officers, agents, servants, and all persons acting or claiming to act on its behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of Sections 6, 7, 11(c), and 15 of the Act, in any manner, specifically:

1. Defendant shall not, contrary to Section 6 of the Act, pay to any of its employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce,

within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Sections 6 and 15(a)(2) of the Act.

2. Defendant shall not, contrary to Section 7 of the Act, employ any of its employees including, but not limited to, any of its employees working at Team Environmental, LLC, 50 Simmons Drive Millwood, WV 25262, or at any business location owned, operated, and/or controlled by Defendant, and at any other business location at which its employees perform work, in any workweek when they are engaged in commerce or employed in an enterprise engaged in commerce, within the meaning of the Act, for workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the said employees receive compensation for their employment in excess of the prescribed hours at a rate equivalent to one and one-half times the regular rates applicable to them.

3. Defendant shall not fail to make, keep, and preserve adequate records of its employees and of the wages, hours, and other conditions and practices of employment maintained by it including, but not limited to, any of its employees working at Team Environmental, LLC, 50 Simmons Drive Millwood, WV 25262, or at any business location owned, operated, and/or controlled by Defendant, and at any other business location at which its employees perform work, as prescribed by the Regulations issued pursuant to Section 11(c) and 15(a)(5) of the Act and found at 29 C.F.R. Part 516.

4. Defendant shall not discharge or take any retaliatory action against any of its employees, whether or not directly employed by Defendant, because the employee engages in any of the following activities pursuant to Section 15(a)(3) of the Act:

i. Discloses, or threatens to disclose, to a supervisor or to a public agency, any activity, policy, or practice of the Employers or another employer, with whom there is a

business relationship, that the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act;

ii. Provides information to, or testifies before, any public agency or entity conducting an investigation, hearing or inquiry into any alleged violation of the Act, or a rule or regulation promulgated pursuant to the Act, by the Employer or another employer with whom there is a business relationship;

iii. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes is in violation of the Act, or a rule or regulation promulgated pursuant to the Act.

It is further ORDERED, ADJUDGED and DECREED by the Court that:

5. Defendant is enjoined and restrained from withholding gross back wages in the sum total amount of \$1,850,000.00, and are jointly and severally liable for the payment of \$1,850,000.00 in liquidated damages, due certain employees and former employees of Defendant set forth and identified in Schedule A, which is attached as Exhibit A hereto and made a part hereof.

6. Defendant shall pay gross back wages and liquidated damages in the total amount of \$3,700,000.00, for violations of the overtime provisions of the Act by Defendant alleged to have occurred during the period beginning October 20, 2012 and ending May 8, 2015 (“relevant period”). This amount shall represent the full extent of back wages and liquidated damages owed by Defendant for the relevant period to the employees set forth and identified on the attached Schedule A. It is further agreed that the overtime compensation and liquidated damage payments by Defendant in the amounts as specified above are in the nature of back wages and liquidated

damages pursuant to the provisions of the Act. Defendant shall remain responsible for all tax payments considered to be the “employer’s share,” including, but not limited to, FICA.

i. The provisions of this Consent Judgment relative to back wage and liquidated damages payments shall be deemed satisfied when Defendant delivers to the designated representatives of Plaintiff a payment in the amount of \$3,700,000.00 within sixty (60) days of the entry of this Judgment by the Court. Payment may be made online by ACH transfer, credit card, or debit card by going to <https://www.pay.gov/public/form/start/77689032> or www.pay.gov. Alternatively, payment may be in the form of a certified check, bank check, or money order made payable to the order of “**Wage and Hour Division – Labor**,” and mailed to:

U.S. Department of Labor, Wage & Hour Division
The Curtis Center, Suite 850 West
170 South Independence Mall West
Philadelphia, PA 19106-3317

The check or money order shall bear the following reference: **Case ID# 1741763**.

ii. The Secretary, through the Wage and Hour Division, shall distribute the back wages (less any applicable federal taxes, withholdings, and deductions) and liquidated damages payments to the employees and former employees on Schedule A, or to their estates. Any sums not distributed to the employees or former employees on Schedule A, or to their estates, because of inability to locate the proper persons or because of such persons’ refusal to accept such sums, shall be deposited with the Treasurer of the United States pursuant to 29 U.S.C § 216(c).

iii. To the best of its ability and based upon information it currently has in its possession, Defendant shall provide to Plaintiff the social security number and last known address of each employee or former employee due money under this Consent Judgment within sixty (60) days of the entry of this Judgment by the Court.

iv. The provisions of this Consent Judgment shall not in any way affect any legal right of any individual not named on Schedule A, nor shall the provisions in any way affect any legal right of any individual named on Schedule A to file any action against Defendant for any violations alleged to have occurred outside the relevant period.

7. Neither Defendant nor anyone on its behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid under this Consent Judgment. Any such amount shall be immediately paid to the Secretary for deposit as above, and Defendant shall have no further obligations with respect to such returned monies. If recovered wages have not been claimed by the employee or the employee's estate within three years of the entry of this Consent Judgment, the Secretary shall deposit such money with the Treasury in accordance with Section 16(c) of the Act.

8. Further, the parties agree that the instant action is deemed to solely cover Defendant's business and operations for the relevant period for all claims raised in the Complaint as a result of the Secretary's investigation. The parties agree that the filing of this action and the provisions of this Judgment shall not, in any way, affect, determine, or prejudice any and all rights of any person specifically named on Schedule A or the Secretary for any period after May 8, 2015, or any persons, be they current or former employees, not specifically named on Schedule A, insofar as such rights are conferred and reserved to said employees by reason of Section 16(b) of the Act.

9. Defendant agrees that it is an employer within the meaning of Section 3(d) of the Fair Labor Standards Act, 29 U.S.C. § 203(d).

10. By entering into this Consent Judgment, Plaintiff does not waive his right to conduct future investigations of Defendant under the provisions of the FLSA and to take

appropriate enforcement action, including assessment of civil money penalties pursuant to Section 16(e) of the FLSA, with respect to any violations disclosed by such future investigations.

It is FURTHER, ORDERED, ADJUDGED, AND DECREED that each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding including, but not limited to, attorney fees which may be available under the Equal Access to Justice Act, as amended.

Date March 4, 2019


UNITED STATES DISTRICT JUDGE

Defendant has appeared by counsel and hereby consents to the entry of this Judgment.

For the Employer, Team Environmental, LLC



Carson Chenoweth
As Owner of Team Environmental, LLC

/s/ Webster J. Arceneaux III

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